

**DURHAM POLICE DEPARTMENT FOLLOW-UP STATEMENT TO THE
CITY OF DURHAM HUMAN RELATIONS COMMISSION**

Final Report to the Durham City Manager

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Follow-up Statement to the City of Durham Human Relations Commission

Allegations of Bias-Based Policing and Racial Profiling

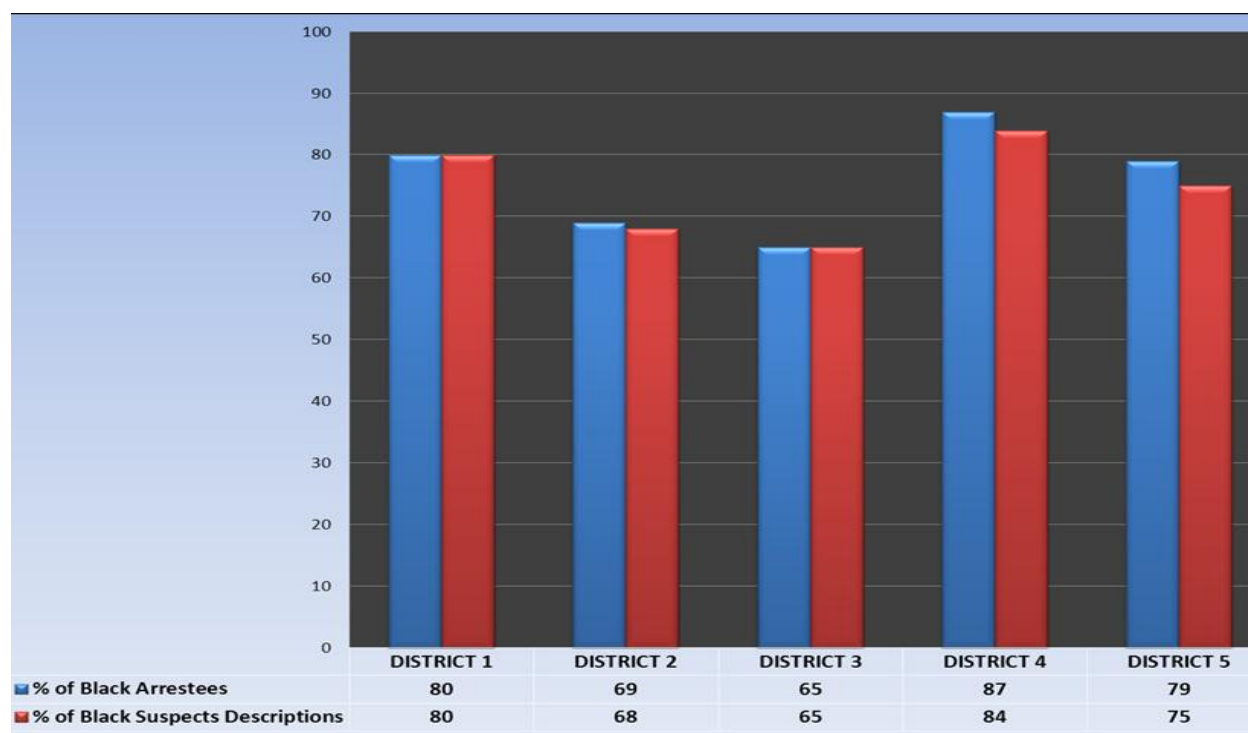
Pulitzer Prize winning author Eugene Robinson wrote that we often see what we know; meaning that oftentimes people form an opinion and they only see what supports that opinion or everything that they see supports that opinion. The Fostering Alternatives to Drug Enforcement (F.A.D.E.) Coalition didn't begin with a question and try to find out if there was a problem; they began with the passionate belief that a problem exists and they can't see anything else. The coalition has stressed that Blacks make up 41% of the population in the City of Durham. They have also pointed out that eighty percent of people searched during traffic stops over the last five years were black. They blame this disparity on discrimination to the exclusion of any other possibilities such as information or actions that imply the possibility of criminal behavior. We reiterate that each traffic stop is unique and searches are generally based on consent, probable cause, or search incident to arrest. Asking for consent to search is not a violation of anyone's rights nor is it discriminatory. It is merely using a law enforcement tool that has long been recognized by the highest court in this country. We reiterate that each individual officer makes his or her own determination as to when to ask for consent to search. The reasons for making such a request are numerous but race is not one of them.

With respect to the continual mention of the black percentage of the population in relation to arrests, etc. this metric that compares arrests to the percentage of the general population makes an unspoken inference that the various races must commit crimes in numbers equivalent to their respective percentage of the population, or all of the races must commit crimes at about the same rate. It also immediately taints the discussion of data with a racial hue that injects emotion into the assessment. **We can find no documented basis for this metric or these assumptions anywhere in research methodology.** On their face these assumptions are flawed because it is not the general population that is committing crime, but rather a portion of the population, i.e. criminals. Secondly it implies that policing should be consistent with census data rather than an identified community need which is obviously neither sound management nor fair to all citizens. **The metric that really matters when assessing police bias is the racial**

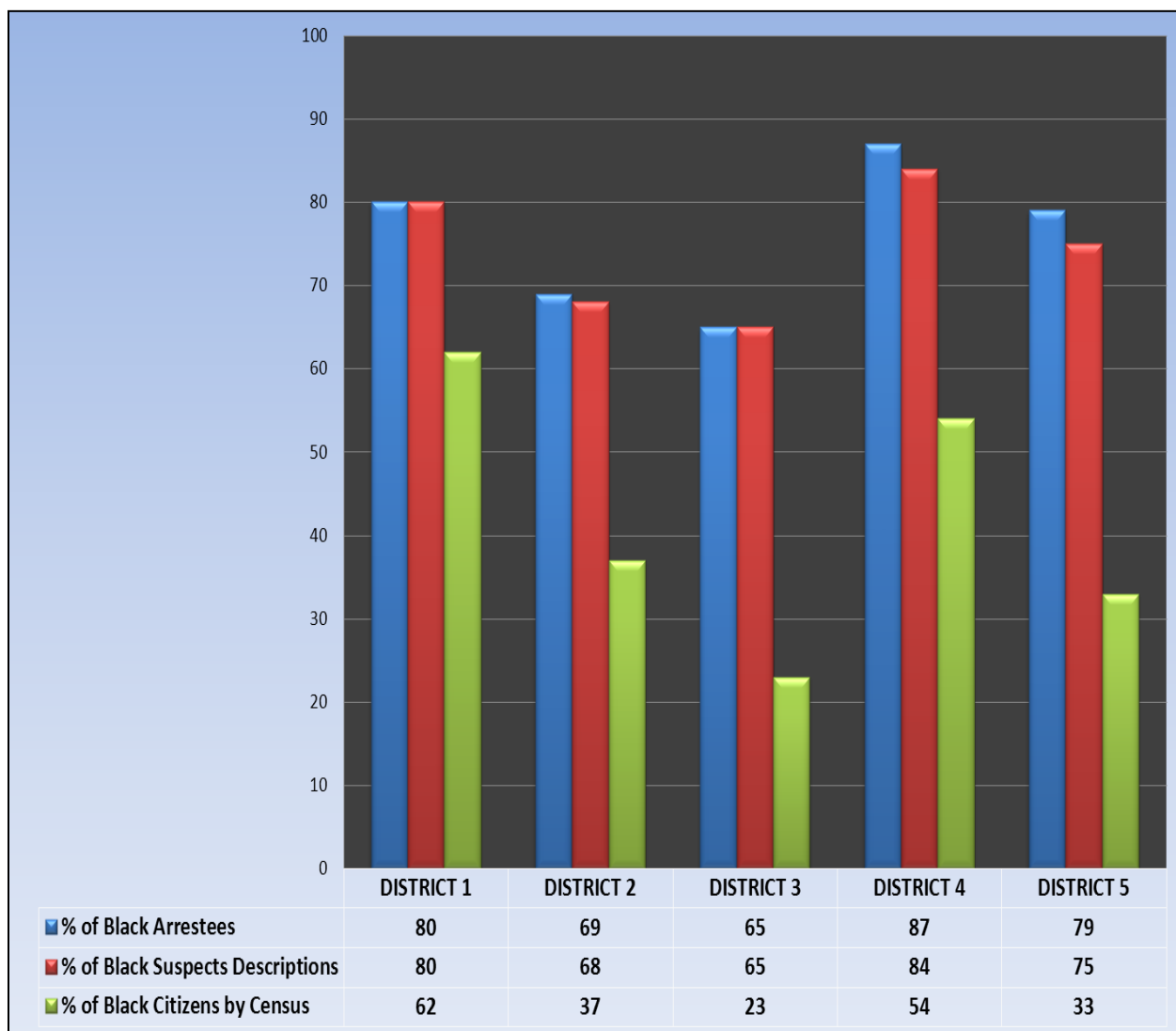
demographics of the offender population in comparison to the persons arrested. Author Heather Macdonald (2013) wrote in an article about the New York Police Department (NYPD),

“You cannot properly analyze police behavior without analyzing crime. Crime is what drives . . . tactics; it is the basis of everything the department does . . . crime, as reported by victims and witnesses . . .”

We respectfully submit that a more fair and accurate test of police bias is to compare the percentage of suspected criminals who are black with the percentage of arrested criminals who are black. Such a comparison should indicate if the police are unfairly targeting minorities or simply arresting criminals where they find them. The Department reviewed all of its reports for the past five years and counted the number of suspects described as black. This data was compared to the number of black arrestees for the same period. This data is inclusive of all crimes wherein a victim or witness described a suspect. The results were as follows: **The arrest data closely follows the suspect description data which suggests that the police are arresting black offenders at a rate consistent with their participation in criminal activity.**



We also took the percentage of described black suspects and the percentage of black arrestees and compared them to the 2010 Census data. The results are illustrated in the following bar graph chart.



In each district the percentage of black suspects exceeds their representation within the general population. While this data does not illustrate driving behavior or traffic offenses, it does beg the question: Since black people are described as suspects in crimes at rates that exceed their proportion of the population, isn't it reasonable to at least consider that the police may be acting on a combination of their training, experience, and observations when conducting traffic stops and searches rather than acting out of bias? Isn't it worth at least considering that behavior and

evidence may be the variables leading to requests to search? **Even if you reject these suggested variables, the data suggests there is no directed systemic targeting of black criminals, and by extension, motorists. The police investigate and follow the evidence – that is our role.**

Allegations of Community Concern

Someone said that if you say something often enough and loud enough people will begin to believe it. The F.A.D.E. Coalition, which has been using media statements to drive the current controversy, is self-described as consisting of the Southern Coalition for Social Justice, the NAACP, Spirit House, and an assortment of concerned citizens and clergy with no real designated leader or lines of accountability. The coalition has made much of the fact that they represent a growing number of concerned citizens. First, it would be interesting to know who elected this coalition as the voice of the community. It has been our experience that the City of Durham has very intelligent, vocal, activist communities who have no problem speaking for themselves whenever they have a concern. Our citizen partners are not shy about expressing criticism or concern about a police matter. We as a department are very responsive to issues that are brought to our attention and we make personal contact with the citizen. A discussion is had, an explanation is obtained and provided, and we maintain the relationship even if we have to agree to disagree. As we stated earlier, the Department has well-established and well utilized open lines of communication with the community. Every district commander routinely fields phone calls and emails from citizens regarding a large variety of issues and concerns. Some citizens choose to email our City Manager or elected officials. All of these concerns are routed to the appropriate person for follow-up and the citizen receives direct contact from the police department. Additionally, each district commander and his or her officers attend numerous community meetings throughout the year. Just as one example, **thus far in 2013, the five district commanders alone have attended one hundred sixty-five (165) documented community meetings.** These meetings include neighborhood association meetings, church services, public housing safety meetings, assorted community gatherings and celebrations, etc. This doesn't include the countless phone calls and emails that commanders respond to on a daily basis, or the meetings and phone calls that the assistant commanders participate in, or the phone calls and meetings that the executive command staff participate in on a regular basis. **That's 165 times where citizens had direct, face-to-face contact with their district commander in their**

community and an opportunity to express any concerns that they may have had. The citizens outlined all types of concerns, some of which required referrals to the appropriate City department. **All of the commanders report that the vast majority of the interactions involved praise for the presence of the police and our efforts – and most of the time there was a request for more police presence.** There were isolated concerns raised about some of our police practices, three that we are aware of; however, they were not complaints about any policy violations or wrongdoing by the officers. There was one complaint about a specific officer's demeanor and the commanders took immediate steps to address the citizens' concern. We submit that the Department has received and continues to receive strong support from this community and that any alleged broad community concern is being manufactured rather than growing. This is evidenced in the effort the coalition has to expend attempting to draw crowds of people to public meetings and rallies.

The coalition has stated that it wishes to work with the Durham Police Department in addressing these alleged community concerns; however, this coordinated public attack undertaken by the coalition does not comport with a desire to collaborate. It is true that the Department declined to participate in coalition sponsored panel discussions with media coverage **but** did offer to meet and work towards some resolutions. It is true that various members of the coalition did engage in a few of meetings with the Department and made these same allegations; however, when asked for some supporting information they never produced these citizen complaints that they have compiled. The Department wasn't afforded an opportunity to research or look into the allegations before coming under public attack with data that we have now brought into question. Additionally, after meeting with the Department on two occasions, listening to our explanations and discussing action steps to move forward, the coalition chose to send a representative to the National Conference for the Commission on Accreditation for Law Enforcement (CALEA) in an attempt to undermine our effort to attain the Gold Standard Accreditation. **The time for public comment during our re-accreditation process was widely publicized in electronic and print media. There was an opportunity for public comment via telephone and a public forum in City Council Chambers – there was no negative public input.** Yet, the coalition chose to make a presentation before the commission and present these same allegations along with some misleading information. Make no mistake about it, this is a

coordinated effort to assassinate the character and undermine the credibility and effectiveness of this police department by stirring public emotion through accusations of discrimination.

What is most troubling about these tactics is how other people's emotional pain and suffering is being played upon to support this agenda. The Department has had the misfortune to have been involved in two shootings and one in-custody death over the past few months, all of which are still under investigation by an independent authority. All of these incidents are tragic losses of life for everyone involved; there are no winners, only survivors left asking "why" and "what if". These tragic incidents are not racial issues in and of themselves, and it is reprehensible for anyone to take advantage of someone else's emotional pain and use it to try and make that implication. We would contrast the current climate to 2010 when one of our officers shot and killed a citizen on East Geer Street when the decedent came at the officer with an edged weapon. Both the officer and the decedent are white, and while the incident was covered by the local media in two reports, there was not the level of scrutiny and repetitive referencing that we are now seeing. Why? The loss was equally devastating to that family. The difference now is that the specter of bias has been raised by injecting race as an issue and implying that race is a contributing factor thereby stirring public emotion; and the more often that specter is raised, the easier it becomes to believe that there are issues of discrimination where there really aren't. All of these tragedies are independent of each other and totally unrelated to the allegations of the coalition, despite the continual media references. It would appear that there are some who wish to mix these tragedies with the coalition's unsupported allegations and create a controversy. **While the Department will defend itself vigorously, our greater concern is the climate of mistrust that is being manufactured by the repetitive negative commentary and rhetoric. The only people who benefit from community mistrust of the police are the criminals who are enabled, emboldened, and empowered while the rest of us suffer with the consequences.**

Throughout the history of policing law enforcement's relationship with minority communities has not always been positive. The Durham Police Department has spent over twenty years building and maintaining relationships and partnerships throughout this city - especially in our minority communities. These relationships, and the community engagement that they've fostered, have been beneficial for all of Durham and we should not allow them to be weakened by unproven allegations. A reasonable person has to ask themselves whether a

department that expends \$2.7million dollars annually managing 30 community programs, exceeds the national average in diversity in hiring, obtains the highest level of professional accreditation and has had several of its programs recognized and emulated on the local, state and national levels; would this same department create or allow a culture that allows bias-based policing to flourish? We would ask that the commission and the public review our responses and the information that we've provided and form their opinion(s) based on the substantive information rather than emotion. The Department doesn't shy away from criticism – we accept it as a part of our profession. Constructive criticism and dialogue allows us to educate those unfamiliar with police practices and it compels us to look at ourselves and assess what we can do to improve.

Conclusion

Navigating this public criticism and inquiry has been a challenge, but challenges can also be opportunities in disguise. As a progressive and forward-thinking police agency, we don't want to miss any opportunity to improve ourselves and our staff. While the controversy and unrest created by the coalition's allegations has been a test of the strength of our community partnerships, there have been some benefits derived from the scrutiny and subsequent discussion:

- First, we have had to take a hard look at ourselves as a department - our internal controls, and our review process just to be sure that we're doing all that we can. Consequently, we are now trying to develop a method of analyzing our officers' individual traffic stop data more closely and to review that annually to ensure that our officers are complying with our prohibition on bias-based policing.
- Second, we are actively researching training to supplement the State mandated diversity training. We are going to be looking for something that addresses hidden or unrealized biases that we all possess and how to best ensure that such biases don't impact our officers' decision-making.
- Third, it was discovered that complainants don't really know that officers are actually disciplined when complaints are sustained. This led to the assumption that nothing happened to the officer and the complainant did not necessarily feel vindicated. We are trying to explore some way to get this message out to the greater community without compromising personnel privacy.

- Fourth, we are actively working on a protocol that will allow us to release some facts and information regarding critical incidents a little sooner in certain situations.

In closing we want to be very clear on several points. First, we want to assure the community that the Durham Police Department takes all community concerns seriously and we strive to be inclusive rather than dismissive in working together to address such concerns. Second, the Durham Police Department does not shy away from constructive criticism of our police practices and methods; however, we would respectfully request that any criticism be fair, balanced, and accurate. Third, we want to reiterate that the Durham Police Department as an agency does not engage in, or tolerate any type of bias-based or discriminatory policing.

Lastly, we would remind our community that faith and trust are choices. Many years ago this police department, this City Government and this community put our collective faith in a concept called Community Policing, and our citizens chose to put their faith and trust in their police department. Over the years that faith and trust strengthened and grew and the city has prospered. Although we may not have turned the corner, we have made significant progress together. Now others are beginning to see our city as the jewel that we always knew it was. However, we now find our faith and trust being tested. The Durham Police Department is saying to our community that we might not be where we want to be, but thanks to the faith and trust that we have placed in each other, we're not where we used to be and we want to encourage our community partners to keep that faith and trust so that together we can keep moving this great city forward.

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